IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11843 of 2004

Between:

D.Ramakrishna S/o Kondanna
R/o D.No.16/511, Umanagar, Old Town, Ananthapur, Ananthapur District

..... PETITIONER

AND

1 The Depot Manager, APSRTC Ananthapur Depot, Ananathapur
2 The Deputy Chief Traffic Manager, APSRTC, Ananthapur Region, Ananthapur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ declaring the actions of the respondents No.1 in imposing a major penalty of deferment of one annual increment with cumulative effect vide proceeding no.02/94(78)/94-ATP dated 5/04/1997 as illegal, arbitrary and in violation of Principle of Natural Justice and in violation of Art. 14 and 21 of the Constitution of India and consequently direct the respondents to add one annual increment to the pay of the petitioner and pass such other appropriate orders.

Counsel for the Petitioner: S.SURENDRA KUMAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following:

ORDER:

For certain irregularities said to have been committed by the writ petitioner a charge sheet, dated 20.07.2004, has been issued to him calling for his explanation. The petitioner gave his explanation. Having not satisfied with the said explanation, the impugned proceedings vide proceedings No.02/95(78)/94-ATP, dated 05.04.1997, has been issued whereunder the punishment of postponement of future annual increment for a period of one year with cumulative effect has been imposed. Against the said proceedings, the writ petitioner preferred an appeal before the 2nd respondent on 03.09.1997, but till now he has not passed any orders on the same. Hence the present writ petition.

The learned counsel for the writ petitioner contended that without conducting any enquiry, a major penalty is imposed which is contrary to the rules and regulations of the Corporation and therefore, he prays to set-aside the same. He further submitted that in view of lapse of time, a minor penalty may be imposed on the petitioner.

On the other hand, the learned Standing Counsel appearing for the respondents opposed the same on the ground that there were lapses on the part of the writ petitioner in giving explanation to the charge sheet issued to him for certain irregularities said to have been committed by him. Thereafter, the impugned proceedings have been passed on 05.04.1997 imposing a penalty of postponement of one future annual increment with cumulative effect.

There cannot be any dispute that a major penalty cannot be imposed unless it is preceded by a regular departmental enquiry. Admittedly, no departmental enquiry is conducted in this case. Since, the incident has taken place about a decade back, it is not desirable to remit back the matter to the appropriate authority for conducting

regular departmental enquiry, even otherwise it is the case of the writ petitioner that a minor penalty can be imposed on him because of lapse of time. So, considering the peculiar facts and circumstances of the case, the major penalty imposed on the writ petitioner can be modified to that of a minor penalty.

The writ petition is accordingly disposed of modifying the penalty of postponement of one future annual increment with cumulative effect to that of deferment of one annual increment without cumulative effect. In the circumstances, no costs.

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(K.C.BHANU, J)

13.07.2004

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To

1 The Depot Manager, APSRTC Ananthapur Depot, Ananathapur
2 The Deputy Chief Traffic Manager, APSRTC, Ananthapur Region, Ananthapur

3 Two C.D.copies.